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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DWAYNE TILLERY,

Plaintiff,

Case No. 3:20-cv-00004-RFB-WGC

v.

SCOTT ADAMSON, *et al.*,

Defendants.

ORDER

I. DISCUSSION

On January 2, 2020, Plaintiff, then an inmate in the custody of the Nevada Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.)

On November 2, 2020, following confirmation from the NDOC inmate database that Plaintiff Dwayne Tillery (#32659) had died on October 19, 2020, the Court issued an order allowing a 90-day period from the date of that order for a motion for substitution to be filed by any party or by the decedent’s successor or representative. (ECF No. 3).

Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

The 90-day period has passed and there has been no motion for substitution. As such, the Court dismisses the case.

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...

1 **II. CONCLUSION**

2 For the foregoing reasons, it is ordered that the Court dismisses this case without
3 prejudice pursuant to Fed. R. Civ. P. 25(a)(1).

4 It is further ordered that the Clerk of the Court will close the case and enter
5 judgment accordingly.

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7 DATED: March 12, 2021.

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10 RICHARD F. BOULWARE
11 UNITED STATES DISTRICT JUDGE

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